IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PIL WRIT PETITION NO.3561 OF 2005

Akhil Bharatiya Gramin Vikas Sanstha
and others. .. Petitioners

v/s.

State of Maharashtra and others. .. Respondents

Mr.D.G.Ahuja -petitioner No.1 in person.

Mr.V.P.Malvankar, Assistant Government Pleader for the respondent Nos. 1 to 5.

Mr.A.P.Kulkarni for the respondent Nos.11,25,27 and 65.

CORAM : R.M.LODHA &
NARESH H. PATIL, JJ.

DATED : 4TH AUGUST, 2006.

P.C.

We heard Mr.D.G.Ahuja, first petitioner in person.

2. In the writ petition interalia the following prayers have been made:-

"(a) that this Hon'ble Court may be pleased to grant the rule in absolute terms;

(b) This Hon'ble Court may be pleased to stay the election to take place on 4.5.2005.

(c) The Respondents 7 to 78 be pleased be restrained from voting on 4th May 2005.

(d) The action of the Respondent No.4 dated 28.3.2005 who had declared the election program without correcting the voters list as per order dated 28.3.2005 of Respondent No.3 be restrained from conducting elections on 4.5.2005 till the voters list is finally corrected as per the order dated 28.3.2005 of the Respondent No.3.

(e) The respondent No.5 and 6 be directed to correct the voters list and declare the final list of the voters as per the orders of Respondent No.3 dated 28.3.2005;

(f) That this Hon'ble Court may be pleased to declare the election being held on 4.5.2005 as void and illegal and the same be set aside if held on 4.5.2005."

3. We are afraid, at this distance of time, no relief can be granted to the petitioners as the election has already taken place on 4th May, 2005. In so far as challenge to the legality and correctness of the election result pursuant to the election held on 4.5.2005 is concerned, the same to be done by filing election petition in accord with law. The result of the election held on 4.5.2005 cannot be declared null and void in extraordinary jurisdiction under Article 226 of the Constitution of India.

4. The first petitioner relied upon and referred to the judgment in the case of Rajan Dinkarrao Pharate and others v. State of Maharashtra and others, 1997(1) Mh.L.J., 453, given by one of us

(R.M.Lodha, J.). The said judgment had the peculiar facts which is apparent from the body for the judgment that 97% members of the specified co-operative society were excluded from the right to vote and their applications for registering them as voter in the final list of voters were rejected in sub-rule (7) of rule 6 of the Maharashtra Specified Co-operative Societies Elections to Committee Rules, 1971 on untenable and unjustifiable grounds. The present case does not fall in this category.

5. If the petitioners desire to challenge the result of to the election held on 4.5.2005, they are always free to do so. However, this observation shall not be construed that delay in filing such proceedings has been condoned by the High Court.

Writ petition is, accordingly, dismissed in limine

(R.M.LODHA, J.)

(NARESH H. PATIL, J.)